



Virginia
Regulatory
Town Hall

townhall.state.va.us

Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	13 VAC 5-31
Regulation title	Virginia Amusement Device Regulations
Action title	Update and Amend the Virginia Amusement Device Regulations
Document preparation date	April 9, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The regulatory action is to update the regulation to incorporate by reference the newest available nationally recognized model building codes and standards. Since the national codes are so comprehensive in their scope, the agency will accept comment on all provisions of the regulation to insure its compatibility with the latest codes.

Public input is important to the development of regulations to meet Virginia's needs. Therefore, the Board is expanding the public comment period in order for the public to see and respond to comment received during the comment period. The Board of Housing and Community Development will use the following procedure to develop proposed regulations and to receive public input:

1. Staff will draft a base document for each regulation under consideration. The purpose of the base document is to make those changes necessary to the regulation to (i) correct unclear or grammatically incorrect language, (ii) correlate the existing regulation with a newer edition of a model code, (iii) make changes necessary to

- comport with state law and (iv) reformat or change the arrangement of the regulation, as needed.
2. Staff also will identify major differences between the editions of the model codes used in the current regulations and the editions of the new model codes being considered. Also, any issues or items that the Board has specifically asked to be considered for the proposed regulation and any code changes that are legislatively mandated will be included in the base documents .
 3. Steps 1 and 2 above will provide the basis for developing a proposed regulation. Once a proposed regulation is adopted by the Board and published, a 60-day public comment period (the first comment period) will be initiated. After the first comment period closes, staff will review all comments and prepare evaluations on each proposal submitted. A package containing all public comment and staff evaluations will be prepared and disseminated to the client groups for review.
 4. An additional 30-day public comment period (the second comment period) will be advertised for the submittal of responses to the staff packages from the first comment period. A public hearing will be held during this second comment period. After the second comment period, staff will prepare a package containing all public comment and the staff evaluations for the Board.
 5. Depending upon the nature and extent of comment received, instead of developing a final regulation immediately, the Board may elect to publish a revised proposed regulation (re-proposed) containing all changes to the original proposed regulation. There will be a 30 day public comment period for any re-proposed regulation.
 6. Following the public comment period on the re-proposed regulation, the Board’s Codes and Standards Committee will develop recommendations for the Board for final regulations.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to update the regulation is contained in § 36-98.3 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. As the regulation is a companion to the Virginia Uniform Statewide Building Code, state law does require the Board to keep the regulation up to date.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Virginia Amusement Device Regulations (the “VADR”) has historically been based on nationally recognized standards as a companion document to the Virginia Uniform Statewide Building Code (the “USBC”). Those standards are promulgated by the American Society for Testing and Materials, or ASTM. As the newest national codes are also being incorporated into the USBC, it is appropriate to also update the VADR to the newest available ASTM standards. The specific reason for the action being essential to protect the health, safety or welfare of Virginia’s citizens is that when new nationally recognized standards become available, they are considered to be the latest consensus of all affected groups and persons for providing safe amusement devices at the least possible cost and therefore should be incorporated into the VADR when available. Potential issues to be addressed during the updating of the VADR are generally determined by the client groups who review the newest ASTM standards and submit comments where appropriate.

There are no substantial changes to the baseline VADR. The VADR Advisory Committee is reviewing the VADR and is considering code changes to the definition of “amusement devices”, to include climbing walls and inflatable amusement structures under the VADR and to adjust permit fees for inspections.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no viable alternatives that the Department is aware of which will accomplish the purpose of the action.

Impact on family

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The Department is not aware of any potential impact of this action on the institution of the family or on family stability.